

REMARKS

Claims 7 and 17 are amended. Claims 1-20, as amended, remain in the application. No new matter is added by the amendments to the claims.

In the Office Action dated October 7, 2004, the Examiner rejected Claims 7 and 17 under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention. The Examiner stated that it is unclear as to what is meant by reversible and, if Applicant is requiring that the body be placed upon a ladder end in a reversible condition, then that must be correctly recited.

The term "reversible" is defined in the specification on page 3 at lines 17-19 as:

"However, the protective device 20 is advantageously reversible such that when paint gets on the outer surface of the body 21, the body can be turned inside out to present the clean inner surface to the outside."

Applicant has amended Claims 7 and 17 to clarify this definition.

The Examiner rejected Claims 1, 2, 4-6, 8, 9, 11, 12, 14-16, 18, and 19 under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 2,904,128 issued to Boham et al. The Examiner stated that Boham et al. discloses a ladder hood 4 comprised of a fabric material, that can be stitched together, securing straps 5, that can be stretched, the hood placeable over the end of a ladder stile.

The Examiner rejected Claims 3, 10, and 13 under 35 U.S.C. § 103(a) as being unpatentable over Boham et al. The Examiner stated that Boham et al. fails to disclose glue used to secure the straps and terrycloth used to fabricate the hood. According to the Examiner, the use of glue is an obvious design choice, not expected to produce any new and unexpected results, and the use of terrycloth as a fabric is also a design choice.

Independent Claim 1 defines "a closure means attached to said body and extending about said opening, said closure means being operative to reduce a size of said opening." The Boham et al. patent does not show or suggest such a "closure means". Boham et al. describes the hood as preferably having a fairly close fit on the end of the ladder rail and that the approximate cross-sectional size and shape of the ladder rail for which the hood is intended can be used to determine the dimensions of the roughly rectangular portion of the body section 6. See Col. 2,

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Lines 5-11. Thus, there is no reason to reduce the size of the opening in the Boham et al. hood and Boham et al. provides no means to do so.

Independent Claims 12 and 19 define "an elastic band attached to said body and extending at least partially about said opening, said elastic band being operative to reduce a size of said opening." The Boham et al. patent does not show or suggest such an "elastic band". The strap 5 identified by the Examiner has ends attached to the body 6 and is adapted to pass around a rung 3 of the ladder to hold the hood on the end of the ladder rail. The strap 5 does not operate to reduce the size of the opening in the hood.

Although Claim 20 is listed on the Office Action Summary, it is not mentioned in the Detailed Action.

Clearly, the Boham et al. patent does not show or suggest Applicant's protective device as claimed.

The Examiner stated that the prior art made of record and not relied upon is considered pertinent to Applicant's disclosure. The Examiner cited U.S. Patent No. 6,499,563 issued to Bremick and U.S. Patent No. 5,533,591 issued to Kiska as teaching ladder hood assemblies. Applicant reviewed these references and found them to be no more pertinent than the prior art relied upon by the Examiner in his rejections.

In view of the amendments to the claims and the above arguments, Applicant believes that the claims of record now define patentable subject matter over the art of record. Accordingly, an early Notice of Allowance is respectfully requested.